

IN THE UNITED STATES DESIGNATED OFFICE (DO/US)

In Re the Application of:)
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NORTH, Kathryn Nance)
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Int'l. Serial No.: PCT/AU2003/001202)
)
Int'l. Filing Date: September 15, 2003)
)
Priority Date: September 14, 2002)
)
U.S. Serial No.: 10/527,831)
)
For: "ACTN3 GENOTYPE SCREEN FOR)
ATHLETIC PERFORMANCE")
)
Atty. File No.: 59195-316187)

INFORMATION DISCLOSURE
STATEMENT

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Dear Sir:

The references cited on attached Form PTO-1449 are being called to the attention of the Examiner.

☒ Copies of the cited non-patent and/or foreign references are enclosed herewith.

☐ Copies of the cited U.S. patents and/or patent applications are enclosed herewith.

☐ Copies of the cited U.S. patents/patent application publications are not enclosed in accordance with the waivers dated July 11, 2003 and October 19, 2004, whereby patent applications filed, regardless of the filing date, need not submit copies of U.S. patents and U.S. patent application publications.

☐ Copies of the cited references are not enclosed, in accordance with 37 C.F.R. 1.98(d), because the references were cited by or submitted to the U.S. Patent and Trademark Office in prior application Serial No. _____ filed _____, which is relied upon for an earlier filing date under 35 U.S.C. § 120.

☒ To the best of applicants' belief, the pertinence of the foreign-language references are believed to be summarized in the attached English abstracts and in the figures, although applicants do not necessarily vouch for the accuracy of the translation.

☐ Examiner's attention is drawn to the following co-pending applications, copies of which have been or are being submitted:

Serial No. _____ filed _____

Serial No. _____ filed _____

☒ Other: International Search Report and International Preliminary Examination Report
Corresponding to related PCT Application No. PCT/AU2003/001202

Submission of the above information is not intended as an admission that any item is citable under the statutes or rules to support a rejection, that any item disclosed represents analogous art, or that those skilled in the art would refer to or recognize the pertinence of any reference without the benefit of hindsight, nor should an inference be drawn as to the pertinence of the references based on the order in which they are presented. Submission of this statement should not be taken as an indication that a search has been conducted, or that no better art exists.

It is respectfully requested that the cited information be expressly considered during the prosecution of this application and the references made of record therein.

FEES

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| <input checked="" type="checkbox"/> | <p>37 CFR 1.97(b): No fee is believed due in connection with this submission, because the information disclosure statement submitted herewith is satisfies one of the following conditions ("X" indicates satisfaction):</p> <ul style="list-style-type: none"><input type="checkbox"/> Within three months of the filing date of a national application other than a continued prosecution application under 37 CFR 1.53(d), or<input type="checkbox"/> Within three months of the date of entry into the national stage of an international application as set forth in 37 CFR 1.491 or<input checked="" type="checkbox"/> Before the mailing date of a first Office Action on the merits, or<input type="checkbox"/> Before the mailing of a first Office action after the filing of a request for continued examination under 37 CFR 1.114. <p>Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970.</p> |
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| <input type="checkbox"/> | <p>37 CFR 1.97(c): The information disclosure statement transmitted herewith is being filed after all the above conditions (37 CFR 1.97(b)), but before the mailing date of one of the following conditions:</p> <p>(1) a final action under 37 C.F.R. 1.113 or</p> <p>(2) a notice of allowance under 37 C.F.R. 1.311, or</p> <p>(3) an action that otherwise closes prosecution in the application.</p> <p>This Information Disclosure Statement is accompanied by:</p> <p><input type="checkbox"/> A Certification (below) as specified by 37 C.F.R. 1.97(e). Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970.</p> <p style="text-align: center;">OR</p> <p><input type="checkbox"/> Please charge Deposit Account 19-1970 in the amount of \$180.00 for the fee set forth in 37 C.F.R. 1.17(p) for submission of an information disclosure statement. Please credit any overpayment or charge any underpayment to Deposit Account 19-1970.</p> |
| <input type="checkbox"/> | <p>37 CFR 1.97(d): This Information Disclosure Statement is being submitted after the period specified in 37 CFR 1.97(c).</p> <p><input type="checkbox"/> This information Disclosure Statement includes a Certification (below) as specified by 37 C.F.R. 1.97(e)</p> <p style="text-align: center;">AND</p> <p><input type="checkbox"/> Applicants hereby requests consideration of the reference(s) disclosed herein. Please charge Deposit Account 19-1970 in the amount of \$180.00 under 37 C.F.R. 1.17(p). Please credit any overpayment or charge any underpayment to Deposit Account 19-1970. Election to pay the fee should not be taken as an indication that applicant(s) cannot execute a certification.</p> |

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| <p>Certification (37 C.F.R. 1.97(e)) (Applicable only if checked)</p> | |
| <input type="checkbox"/> | <p>The undersigned certifies that:</p> <p><input type="checkbox"/> Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(1).</p> <p><input type="checkbox"/> A copy of the communication from the foreign patent office is enclosed.</p> <p style="text-align: center;">OR</p> <p><input type="checkbox"/> No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. 1.56(c) more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(2).</p> |

Respectfully submitted,

FAEGRE & BENSON LLP
Customer Number: 35657

Date: _____

By: _____

Richard A. Nakashima
Atty. Reg. No. 42,023
Telephone: 303-447-7728

Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT****Complete if Known**

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|--|---|----|---|------------------------|--|---------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | | | | Application Number | | 10/527,831 |
| | | | | Filing Date | | March 15, 2005 |
| | | | | First Named Inventor | | Kathryn Nance North |
| | | | | Art Unit | | |
| | | | | Examiner Name | | |
| Sheet | 1 | of | 1 | Attorney Docket Number | | 59195-316187 |

U.S. PATENT DOCUMENTS

| Examiner Initials* | Cite No. ¹ | Document Number Number-kind Code ² (if known) | Publication Date MM-DD-YYYY | Name of Patentee of Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
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FOREIGN PATENT DOCUMENTS

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OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)

| Examiner Initials* | Cite No. ¹ | |
|--------------------|-----------------------|---|
| | | "Deficiency of α -Actinin-3 (ACTN3) Occurs in Different Forms of Muscular Dystrophy" by Vainzof et al., Neuropediatrics 28 (1997), 223-228 |
| | | "ACTN3 Genotype is Associated with Human Elite Athletic Performance" by Yang et al., American Journal of Human Genetics, 73: 627-631, 2003 |
| | | "Differential Expression of the Actin-Binding Proteins, α -actinin-2 and -3, in Different Species: Implications for the Evolution of Functional Redundancy" by Mills, et al., Human Molecular Genetics, 2001, Vol. 10, No. 13, 1335-1346 |
| | | "Deficiency of Muscle α -Actinin-3 is Compatible with High Muscle Performance" BY Zanoteli et al., Journal of Molecular Neuroscience, Vol. 20, 2003, pp. 39-42. |
| | | "A Common Nonsense Mutation Results in α -Actinin-3 Deficiency in the General Population" by North et al., Nature Genetics, Vol. 21, April 1999, pp. 353-354 |

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| Examiner Signature | | Date Considered | |
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*EXAMINER: Initial if reference is considered, whether or not citation is in conformance and not considered. Include copy of this form with next communication to applicant.